

09/936,145  
Patent No. 6,770,475 B1  
Request for Cert. of Correction dated December 14, 2004  
Attorney Docket No. 3274-011309

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No. : ~~5,770,475~~ 6720475 Confirmation No. 7911  
Inventors : Inoue et al.  
Issued : August 3, 2004  
Title : PROMOTERS  
Examiner : Manjunath N. Rao  
Customer No. : 28289

Certificate  
DEC 28 2004  
of Correction

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT  
FOR PTO MISTAKE (37 C.F.R. 1.322(a))

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

ATTENTION: Decision and Certificate of Correction Branch  
Patent Issue Division

Sir:

In accordance with 35 U.S.C. §254, we attach hereto Form PTO/SB/44 and a copy of proof of PTO errors and request that a Certificate of Correction be issued in the above-identified patent. The following errors appear in the patent as printed:

Face of Patent, See Item (56), References Cited, Add:

U.S. PATENT DOCUMENTS			
5,721,137	B1	Frascotti et al.	02/1998
FOREIGN PATENT DOCUMENTS, Add:			
Under			
EP	A2	681027	11/1995
JP	A	4-278091	10/1992
JP	A	59-205996	11/1984
JP	A	62-215393	09/1987
JP	A	3-206889	09/1991
JP	B2	60-262663	09/1994
JP	A	7-155183	06/1995
JP	A	10-262683	10/1998
WO	A1	92/03561	03/1992
WO	A1	93/10249	05/1993

Under OTHER PUBLICATIONS, Add:

Lehtovaara, Palvi et al., "In vivo transcription initiation and termination sites of an  $\alpha$ -amylase gene from *Bacillus amyloliquefaciens* cloned in *Bacillus subtilis*", GENE, Oct. 1984, pp. 11-16, Vol. 30 nos. 1, 2, 3, Elsevier Science Publishers.

Horinouchi, Sueharu et al., "Construction and characterization of multicopy expression-vectors in *Streptomyces* spp", MGG Molecular & General Genetics, Dec. 11, 1987, pp. 468-475, Vol. 210, No. 3.

Palva, Ilkka et al., "Nucleotide sequence of the promotor and NH<sub>2</sub>-terminal signal peptide region of the  $\alpha$ -amylase gene from *Bacillus amyloliquefaciens*", GENE, 1981, Vol. 15, pp. 43-51, Elsevier/North-Holland Biomedical Press.

Keggins, Kathleen M. et al., "Molecular cloning of genetically active fragments of *Bacillus* DNA in *Bacillus subtilis* and properties of the vector plasmid pUB110", Proc. Nat. Acad. Sci. USA, March 1978, Vol. 75, No. 3, pp. 1423-1427, Genetics.

Ehrlich, S. D., "Replication and expression of plasmids from *Staphylococcus aureus* in *Bacillus subtilis*", Proc. Natl. Acad. Sci. USA, April 1977, Vol. 74, No. 4, pp. 1680-1682, Genetics.

Ishiwa, Hiromi et al., "New shuttle vectors for *Escherichia coli* and *Bacillus subtilis*. II. Plasmid pHY300PLK, a multipurpose cloning vector with a polylinker, derived from pHY460", Jpn. J. Genet, 1985, Vol. 60, pp. 235-243.

Bolivar, Francisco et al., "Construction and Characterization of New Cloning Vehicles. II. A Multipurpose Cloning System", GENE, 1977, Vol. 2, pp. 95-113, Elsevier/North Holland Biomedical Press, Amsterdam.

(See attached facsimile dated April 19, 2004 which re-sent the Information Disclosure Statement filed 1-14-2002, date stamped as having been received in the U.S.P.T.O. on 2-11-2002 and returned with the 3-24-2003 Office Action but not initialed.)

Column 24, Line 4, Claim 9, "microorganism a transformed" should read  
--microorganism transformed--.

(See Amendment of March 24, 2004, page 3, Claim 34, Line 1.) Claim 34 issued as Claim 9.  
(Also see Examiner's Amendment accompanying the Notice of Allowability.)

Respectfully submitted,

WEBB ZIESENHEIM LOGSDON  
ORKIN & HANSON, P.C.

By 

Kent E. Baldauf  
Registration No. 25,826  
Attorney for Registrants  
700 Koppers Building  
436 Seventh Avenue  
Pittsburgh, PA 15219-1818  
Telephone: (412) 471-8815  
Facsimile: (412) 471-4094

## UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF CORRECTION

PATENT NO. : 6,770,475 *β*1  
DATED : August 3, 2004  
INVENTOR(S) : Inoue et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Face of patent, See Item Item (56), References Cited, Add:

U.S. PATENT DOCUMENTS  
5,721,137 B1 Frascotti et al. 02/1998

Under FOREIGN PATENT DOCUMENTS, Add:

EP	A2	681027	11/1995
JP	A	4-278091	10/1992
JP	A	59-205996	11/1984
JP	A	62-215393	09/1987
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{W0158687.1}

MAILING ADDRESS OF SENDER:

The Webb Law Firm  
700 Koppers Building  
436 Seventh Avenue  
Pittsburgh, PA 15219-1818

PATENT NO. 6,770,475

No. of additional copies



This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

DEC 29 2004

## UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF CORRECTION

PATENT NO. : 6,770,475 **B1**  
 DATED : August 3, 2004  
 INVENTOR(S) : Inoue et al.

It is certified that error appears in the above-identified patent and that said Letters Patent  
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Palva, Ilkka et al., "Nucleotide sequence of the promotor and NH<sub>2</sub>-terminal signal peptide region of the  $\alpha$ -amylase gene from *Bacillus amyloliquefaciens*", GENE, 1981, Vol. 15, pp. 43-51, Elsevier/North-Holland Biomedical Press.

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Ehrlich, S. D., "Replication and expression of plasmids from *Staphylococcus aureus* in *Bacillus subtilis*", Proc. Natl. Acad. Sci. USA, April 1977, Vol. 74, No. 4, pp. 1680-1682, Genetics.

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{W0158687.1}

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 Pittsburgh, PA 15219-1818

PATENT NO. 6,770,475

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DEC 29 2004

**UNITED STATES PATENT AND TRADEMARK OFFICE  
CERTIFICATE OF CORRECTION**

PATENT NO. : 6,770,475 *B1*  
DATED : August 3, 2004  
INVENTOR(S) : Inoue et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Bolivar, Francisco et al., "Construction and Characterization of New Cloning Vehicles. II. A Multipurpose Cloning System", GENE, 1977, Vol. 2, pp. 95-113, Elsevier/North Holland Biomedical Press, Amsterdam.

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{W0158687.1}

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If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

DEC 29 2004



**WEBB ZIESENHEIM LOGSDON ORKIN & HANSON, P.C.**

700 Koppers Building

436 Seventh Avenue

Pittsburgh, PA 15219-1818

Telephone: 412-471-8815 Facsimile: 412-471-4094

E-mail: webblaw@webblaw.com

**FACSIMILE INFORMATION SHEET**

Name of Individual: Examiner Manjunath Rao, Ph.D.

Company: U.S. Patent and Trademark Office

City and State: Alexandria, VA 22313-1450

Facsimile Number: 703-872-9306

From: Kent E. Baldauf

Total Number of Pages: 7 (including Information Sheet)

Date Transmitted: April 19, 2004  
Our File 3274-011309

Message:

Re: Appl. No. 09/936,145

Notice of Allowance dated 04-13-2004

Attached for your review is a copy of Applicant's Information Disclosure Statement filed 1-14-02 which was inadvertently omitted from the enclosures filed with our 3-24-04 Amendment. Please initial and return for our records. This IDS was returned with the 3-24-03 Office Action but not initialed. Thank you for your consideration.

Kent E. Baldauf

If you do not receive all pages, please call back as soon as possible. The number is (412) 471-8815.

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If there are any reception problems, please call 412-471-8815.



The dating stamp of the Patent Office on this card will be taken as an indication that the accompanying paper was filed.

Applicants Yasushi Inoue et al.

Serial No. 09/936,145

Paper dated 01/14/2002

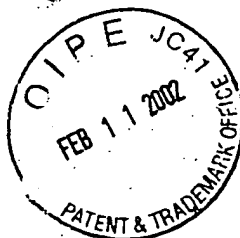
Atty's File No. 3274-011309

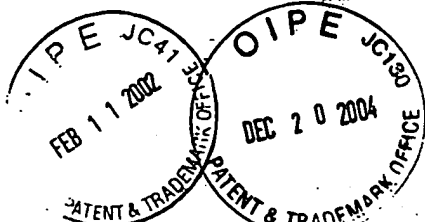
Amount of Check N/A

KEB/dp

In re Patent Application entitled  
"Promoters"

Information Disclosure Statement  
(3 pp.-in trip.);  
Form PTO/SB/08A (2 pp.); copy of  
references cited; Preliminary  
Examination Report





1651

PATENT APPLICATION  
Serial No. 09/936,145  
Attorney Docket No. 3274-011309

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group Art Unit 1651

In re Application of

YASUSHI INOUE ET AL.

PROMOTERS

Serial No. 09/936,145

Filed September 7, 2001

Examiner - Not Yet Assigned

RECEIVED

FEB 14 2002

TECH CENTER 1600/2900

Pittsburgh, Pennsylvania  
January 14, 2002

INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents  
Washington, D.C. 20231

Sir:

Pursuant to 37 C.F.R. §§1.56, 1.97 and 1.98, Applicants hereby submit this Information Disclosure Statement together with a completed Form PTO/SB/30, and a copy of each reference cited or an English-language equivalent thereof.

Several of the references were cited in a Preliminary Examination Report in a counterpart PCT application. A copy of the Preliminary Examination Report and an English-language translation are also enclosed.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Assistant Commissioner for Patents, Washington, D.C. 20231 on January 14, 2002.

Diane Paul

(Name of Person Mailing Paper)

Signature

*Diane Paul*

01/14/2002

Date



Document D3 cited in the International Preliminary Examination Report, EP 681027 to Enricerche S.P.A., is equivalent to U.S. Patent No. 5,721,137, which is provided herein.

The reference by Moran et al., appearing in Mol. Gen. Genet., Vol. 186, p. 339 (1982) entitled "Nucleotide Sequences that Signal the Initiation of Transcript and Translation in *Bacillus subtilis*" is discussed on page 1 of the specification.

Seven Japanese references provided herein are discussed on page 2 of the specification: JP 59-205996; JP 62-215393; JP 3-206889; JP 6-69377; JP 7-155183; JP 6-500689 (equivalent to WO92/03561) and JP 7-504085 (equivalent to WO93/10249).

Three references discussed on page 9 of the specification are provided herein:

- (1) Keggin et al. article appearing in Proc. Natl. Acad. Sci. USA, Vol. 75, 1423-1427 (1978);
- (2) Ehrlich article appearing in Proc. Natl. Acad. Sci. USA, Vol. 75, 1680-1682 (1977); and (3)
- Ishiwa et al. article appearing in Jpn. J. Genet., Vol. 60, pp. 235-243 (1985).

Japanese reference JP 10-262683 is discussed on page 14 of the instant specification.

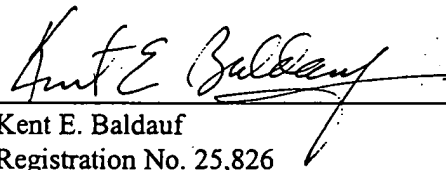
No fee is due for the submission of this Information Disclosure Statement as it is being filed prior to the issuance of a first Office Action on the merits. Nevertheless, the Commission for Patents is hereby authorized to charge any fees which may be required to

Deposit Account No. 23,0650. An original and two copies of this Information Disclosure Statement are enclosed.

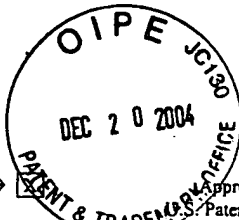
Very truly yours,

WEBB ZIESENHEIM LOGSDON  
ORKIN & HANSON, P.C.

By




Kent E. Baldauf  
Registration No. 25,826  
Attorney for Applicants  
700 Koppers Building  
436 Seventh Avenue  
Pittsburgh, PA 15219-1818  
Telephone: 412-471-8815  
Facsimile: 412-471-4094



FEB 14 2007

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Please type a plus sign (+) inside this box →  Approved for use through 10/31/2001. OMB 0834-0034  
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Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449A/PTO

(use as many sheets as necessary)

**Complete if Known**

Application Number	09/936,145
Filing Date	September 7, 2001
First Named Inventor	Yasushi Inoue et al.
Group Art Unit	1651
Examiner Name	Not Yet Assigned
Attorney Docket Number	3274-011309

Sheet	1	of	2	Attorney Docket Number	3274-011309
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## U.S. PATENT DOCUMENTS

[illegible]

## FOREIGN PATENT DOCUMENTS

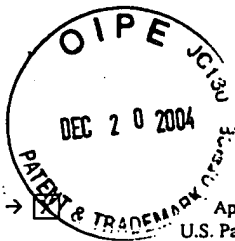
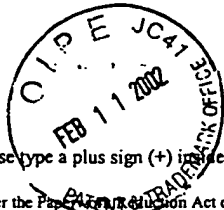
FOREIGN PATENT DOCUMENTS							
Examiner Initials	Cite No. <sup>1</sup>	Foreign Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>2</sup>
		Office <sup>3</sup>	Number <sup>4</sup>				
		EP 681027	A2	Enricerche SPA	Nov. 1995	U.S. equivalent	
		JP(1992) 4-278091	A	Higeta Shoyu	Oct. 1992		
		JP(1984) 59-205996	A	Fernestock	Nov. 1984	Partial English translation	
		JP(1987) 62-215393	A	Thaunders	Sep. 1987	Partial English translation	
		JP(1991) 3-206889	A	Palva	Sep. 1991	Partial English translation	
		JP(1994) 60-262663	B2	Yoshio et al.	Sep. 1994	Partial English translation	
		JP(1995) 7-155183	A	Yamashita	June 1995	Partial English translation	
		JP(1998) 10-262683	A	Inoue et al.	Oct. 1998	Partial English translation	
		WO 92/03561	A1	Palva	March 1992		
		WO 93/10249	A1	Jorgensen	May 1993		

Examiner Signature		Date Considered	
-----------------------	--	--------------------	--

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup>Unique citation designation number. <sup>2</sup>See attached Kinds of U.S. Patent Documents. <sup>3</sup>Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup>For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup>Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. <sup>6</sup>Applicant is to place a check mark here if English language Translation is attached.

**Burden Hour Statement:** This form is estimated to take 2.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, D.C. 20231. **DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO:** Assistant Commissioner for Patents, Washington, D.C. 20231.



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<b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  (use as many sheets as necessary)				<b>Complete if Known</b>	
				Application Number	09/936,145
				Filing Date	September 7, 2001
				First Named Inventor	Yasushi Inoue et al.
				Group Art Unit	1651
				Examiner Name	Not Yet Assigned
Sheet	2	of	2	Attorney Docket Number	3274-011309

OTHER PRIOR ART - NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, cite and/or country where published.	T <sup>2</sup>
		LEHTOVAARA, Päivi et al., "In vivo transcription initiation and termination sites of an $\alpha$ -amylase gene from <i>Bacillus amyloliquefaciens</i> cloned in <i>Bacillus subtilis</i> ", GENE, Oct. 1984, pp. 11-16, Vol. 30 nos. 1, 2, 3, Elsevier Science Publishers	
		HORINOUCI, Sueharu et al., "Construction and characterization of multicopy expression-vectors in <i>Streptomyces</i> spp", MGG Molecular & General Genetics, Dec. 11, 1987, pp. 468-475, Vol. 210, No. 3	
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		KEGGINS, Kathleen M. et al., "Molecular cloning of genetically active fragments of <i>Bacillus</i> DNA in <i>Bacillus subtilis</i> and properties of the vector plasmid pUB110", Proc. Nat. Acad. Sci. USA, March 1978, Vol. 75, No. 3, pp. 1423-1427, Genetics	
		EHRlich, S.D., "Replication and expression of plasmids from <i>Staphylococcus aureus</i> in <i>Bacillus subtilis</i> ", Proc. Natl. Acad. Sci. USA, April 1977, Vol. 74, No. 4, pp. 1680-1682, Genetics	
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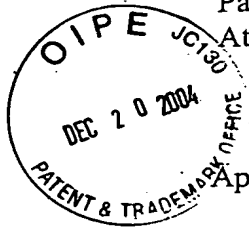
Examiner Signature		Date Considered	
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\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup>Unique citation designation number. <sup>2</sup>See attached Kinds of U.S. Patent Documents. <sup>3</sup>Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup>For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup>Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. <sup>6</sup>Applicant is to place a check mark here if English language Translation is attached.

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Application No. 09/936,145  
Paper Dated March 24, 2004  
Attorney Docket No. 3274-011309



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicants : Yasushi Inoue et al.  
Filed : September 7, 2001  
Title : PROMOTERS  
Group Art Unit : 1652  
Confirmation No. : 7911  
Examiner : Manjunath N. Rao  
Customer No. : 28289

MAIL STOP NON-FEE AMENDMENT

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

SUPPLEMENTAL AMENDMENT

Sir:

Further to the Request for Continued Examination January 22, 2004, Applicants submit the following Supplemental Amendment and accompanying Declaration Under 37 C.F.R. § 1.132.

Amendments to the Claims begin on page 2 of this paper.

Remarks begin on page 4 of this paper.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 24, 2004:

Helen Gerace  
(Name of Person Mailing Paper)

Helen Gerace March 24, 2004  
Signature Date

AMENDMENTS TO THE CLAIMS

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of the Claims

1-3 Canceled.

(1)  
4. (Currently Amended): A promoter of  $\alpha$ -amylase derived from *Bacillus amyloliquefaciens*, wherein the promoter has a sequence of Sequence ID No. 1 that has a restriction site for BamHI in the 3' terminus.

5-8. Canceled.

(2)  
9. (Previously Presented): An expression cassette <sup>comprising</sup> ~~having~~ the promoter sequence according to claim 4. E.A.

(3)  
10. (Previously Presented): An expression vector, wherein a <sup>polynucleotide</sup> ~~gene~~ encoding a protein is inserted into the BamHI restriction site of the expression cassette of claim 9. E.A.

11-14. Canceled.

(4)  
15. (Previously Presented): A recombinant microorganism <sup>transformed with</sup> ~~having~~ the expression vector according to claim 10. E.A.

(5)  
16. (Previously Presented): A method for producing <sup>a</sup> ~~a~~ protein comprising the step of culturing the recombinant microorganism according to claim 15. E.A.

17-30. Canceled.

(6)

31. (Currently Amended): A promoter of  $\alpha$ -amylase derived from *Bacillus amyloliquefaciens*, wherein the promoter has a sequence of ID No. 2 that has restriction sites for BamHI, SmaI, KpnI, SacI and EcoRI in this order from 5' end in the 3' terminus.

(7)

32. (Previously Presented): An expression cassette <sup>comprising E. A.</sup> ~~having~~ the promoter sequence according to claim 31.<sup>6</sup>

(8)

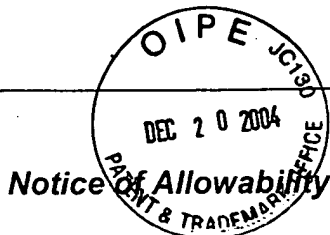
33. (Previously Presented): An expression vector, wherein a <sup>polynucleotide</sup> ~~gene~~ encoding a protein is inserted into one of the restriction sites of the expression cassette of claim 32.<sup>7</sup> E. A.

(9)

34. (Previously Presented): A recombinant microorganism <sup>transformed with</sup> ~~having~~ the expression vector according to claim 33.<sup>8</sup> E. A.

(10)

35. (Previously Presented): A method for producing a protein comprising the step of culturing the recombinant microorganism according to claim 34.<sup>9</sup>



Application No.

09/936,145

Examiner

Manjunath N. Rao, Ph.D.

Applicant(s)

INOUE ET AL.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3-26-04.
2. ☒ The allowed claim(s) is/are 4,9,10,15,16 and 31-35.
3. ☒ The drawings filed on 10 September 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

Manjunath N. Rao, Ph.D.  
Primary Examiner  
Art Unit: 1652



Art Unit: 1652

1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Barbara E. Johnson and Gwen A. Wood on 4-2-04.

The application has been amended as follows:

- A) In claim 9, line 1, delete the word having and replace with "comprising".
- B) In claim 10, line 1, delete the word "gene" and replace with "polynucleotide".
- C) In claim 15, line 1, delete the word "having" and replace with "transformed with".
- D) In claim 16, line 1, delete the phrase "producing protein" and replace with "producing a protein".
- E) In claim 32, line 1, delete the word having and replace with "comprising".
- F) In claim 33, line 1, delete the word "gene" and replace with "polynucleotide".
- G) In claim 34, line 1, delete the word "having" and replace with "transformed with".

***Allowable Subject Matter***

Claims 4, 9, 10, 15-16 and 31-35 are allowed.

The following is an examiner's statement of reasons for allowance: Following a diligent search it was determined that the prior art neither teaches nor suggests a promoter having a polynucleotide sequence with SEQ ID NO:1 with a BamHI restriction in the 3' terminus and an expression cassette comprising the same as claimed in the above claims. Examiner has based his allowance by the applicant's claim of unexpected properties observed by them by providing a Bam HI site at the 3' terminus. Applicants have observed that said promoter has the capacity to